

REGULATIONS OF THE HEARING PANEL AT THE POLISH ANTI-DOPING AGENCY

[General Regulations]

§1.

These regulations define the rules of operation of the Hearing Panel at the Polish Anti-Doping Agency (Panel).

§2.

1. The panel adjudicates on disciplinary liability for doping in sport (anti-doping case).
2. The panel rules under the anti-doping rules:
 - a) the World Anti-Doping Code,
 - b) disciplinary rules regarding doping in sport established by POLADA,
 - c) generally applicable regulations.
3. The panel adjudicates in anti-doping cases about violation of anti-doping rules, penalties, temporary disqualifications, recognition of decisions and jurisdiction.
4. The panel shall adjudicate on other anti-doping cases than those specified in par. 3, provided that anti-doping rules so provide.
5. In the event that the Panel is not competent to adjudicate, the Panel is obliged to indicate the authority competent to consider the anti-doping case.
6. The decision of the Panel on lack of jurisdiction shall be appealed against to the Panel of second instance.
7. The objection of lack of jurisdiction of the Panel may be submitted by the date of the first hearing, unless the party did not know before the expiry of the time limit and with due diligence could not learn the basis of such objection or its basis was established only after that date.

§3.

1. The Panel adjudicates in anti-doping cases as a body of first and second instance (appeal body).
2. The Panel shall rule at first instance in cases of anti-doping rule violations, penalties, provisional disqualifications, recognition of decisions and jurisdiction.
3. The panel decides, as an appeal body, in matters referred to in Art. 13 Anti-Doping Rules of the Polish Anti-Doping Agency:
 - a) violation of anti-doping rules, penalties, temporary disqualifications, recognition of decisions and jurisdiction;
 - b) the granting of a therapeutic use exemption.
4. The provisions of the Panel as the appeal body are final and non-actionable, unless otherwise provided in the anti-doping rules.

[Hearing Panel]

§4.

1. The Panel is a body functionally (judicially) independent of POLADA and public authorities, and organizationally and financially to the extent specified by generally applicable regulations.
2. The independence of the Panel is supervised by the Chairman of the Panel.
3. Any activities of POLADA affecting the financial management and servicing of the Panel require an opinion from the Panel Chairman, and the POLADA Director is obliged to obtain the opinion of the Panel Chairman on the draft annual financial plan of POLADA in the part concerning the Panel.
4. Supervision over the administrative support of the Panel is exercised by the Chairman according to the instance whose organization and work they manage, and to the extent to which the functioning of the Panel requires the employment of people to operate the Panel, the Director of POLADA undertakes to obtain the prior opinion of the Panel Chairman.
5. The rules and manner of performing the operation of the Panel are specified in the order of the Panel Chairs.

§5.

Members of the Hearing Panel are obliged to maintain impartiality and independence during the term of their duties, and must specifically satisfy the requirements found in the definitions of Operational and Institutional Independence in the World Anti-Doping Code, as amended from time to time.

[Bodies of the Hearing Panel]

§6.

The bodies of the Hearing Panels are:

- 1) Assembly of members of the Hearing Panel,
- 2) Chairman of the Panel:
 - a) of first instance,
 - b) of second instance.

§7.

[Assembly of the Hearing Panel]

1. The Assembly of the Hearing Panel adopts resolutions on matters relating to the organization and operation of the Hearing Panel, in particular:
 - a) accepts the regulations of the Hearing Panel,
 - b) divides the members into members of the Panel of the 1st and 2nd instance, subject to the right of the Chairman of the Panel to temporarily delegate a member of the Panel to the 1st or 2nd instance, if it is required to maintain the proper functioning of the Panel,
 - c) determines the rules for the election of the Presidents of the Panels of the 1st and 2nd instance,
 - d) elects and dismisses the Chairman of the Panel of 1st and 2nd instance,

- e) adopt all resolutions regarding the course of the Hearing Panel Assembly, including those concerning the agenda, open voting or the content of resolutions (draft resolutions subject to voting),
- f) ensures uniformity of jurisprudence, while maintaining the right of independence and impartiality of Panel members.
2. The Assembly of the Panel may dismiss the Chairman of the Panel in situations where he ceases to meet one of the requirements referred to in Art. 36 sec. 2 points 2-6 of the Act of April 21, 2017 on combating doping in sport (Journal of Laws 2019, item 1872).
 3. The Assembly of the Hearing Panel may adopt resolutions using means of remote communication.
 4. The Hearing Panel Assembly adopts resolutions by a majority of two-thirds (2/3) votes in the presence of at least (1/2) half of the Panel members properly notified of the Hearing Panel Assembly.
 5. Members should be notified in advance of the Hearing Panel Assembly, but not later than 14 days prior to the convening of the Hearing Panel Assembly.
 6. The Meeting is convened in writing or electronically, indicating the planned agenda and sending draft resolutions.
 7. The Assembly of the Hearing Panel has the right to convene:
 - a) Chairman of the Panel,
 - b) ½ Panel members,
 - c) Assembly of the Hearing Panel.
 8. The Assembly is chaired by the Chairman of the Panel, and in the absence of their presence or other obstacles, a member of the Panel elected by the Assembly of the Hearing Panel.
 9. The Meeting may be attended by persons invited by the Hearing Panel convening the Meeting, unless the Hearing Panel Meeting adopts another resolution.
 10. The Assembly of the Hearing Panel adopts resolutions openly, unless the Assembly of the Hearing Panel adopts resolutions on confidentiality.

[Composition of the Panel]

§8.

1. The panel consists of three members.
2. The composition of the Panel and the chairman of the composition are established by the Chairman of the Panel of the competent instance.

§9.

1. At each stage of the proceedings, each party has the right to request the exclusion of a Panel member due to his lack of impartiality.
2. A Panel member has the right to express an opinion as to the law and facts when explaining the actions to the parties, which may not constitute grounds for excluding a Panel member.

3. The request for only a Panel member is considered by the Chairman of the competent instance, and if the request concerns the Chairman, the Panel Chairman who is not the subject of the request.
4. The submission of an application for exemption shall not suspend the proceedings, unless the Panel decides so.
5. Until the application for exclusion of a Panel member is resolved, no final decision may be issued.
6. Granting the motion for exclusion, the Chairman of the Panel abolishes the proceedings in the scope concerning the participation of this Panel member. The decision of the Chairman may be appealed against to the Panel of second instance.

§10.

1. A member of the Panel who participated in the issuance of a judgment covered by an appeal may not adjudicate on this appeal.
2. In the event of the revocation of the judgment by the Panel, the case may be examined by the Panel in the same panel that issued the revoked judgment.

§11.

[Secretary]

1. The Secretary is not a Panel member.
2. The Secretary of the Panel supports the Panel, and in particular ensures efficient organization and administration of proceedings.
3. The Secretary shall keep case files and support the Panel members in the scope indicated by the Panel and determined by the authorization of the appropriate Chairman.

[Participants in anti-doping proceedings]

§12.

1. The rights of participants in anti-doping proceedings are defined in the Anti-Doping Regulations of the Polish Anti-Doping Agency.
2. In the course of the proceedings, a party has the right to actively participate in the proceedings, including submission of explanations, demands and motions.
3. A party may not have more than two representatives at the same time, subject to the obligation of the party to indicate one representative for service.
4. An attorney-at-law or legal advisor may act as an attorney in an anti-doping case.

§13.

Participation in the proceedings pending before the Panel is ensured to the representative of the club in which the accused operates, a representative of the relevant Polish sports association or other sports organization through the right to take a written position on the anti-doping matter, and more broadly, if the Panel so decides.

[Taking evidence]

§14.

1. The parties are required to provide evidence for the facts from which they derive legal effects.
2. The panel has the right to dismiss a request for evidence, provided that the parties had the opportunity to call it in the first instance, the evidence is irrelevant to the anti-doping case, aims at unjustified prolongation of the proceedings or the party making the request does not pay the advance for the costs of taking the evidence.
3. The panel may take evidence not indicated by the party.
4. The panel assesses the reliability and strength of the evidence according to its belief, based on comprehensive consideration of the material collected.
5. Opinions submitted by the parties do not bind the Panel.
6. The panel has the right to impose on the parties to the proceedings the obligation to present specific evidence, including the costs of presenting it.

[Delivery]

§15.

1. The Panel delivers letters in anti-doping proceedings with acknowledgment of receipt by the public postal operator, by courier, and by electronic means, if the parties have given their consent and have provided an address for such delivery.
2. The letter is deemed delivered after the expiry of the deadline for its receipt.
3. In the course of the proceedings, the parties are required to indicate addresses for service and update them immediately, under the pain of sec. 2. In the event of failure to do so, the letter sent to the last address indicated by the parties shall be deemed delivered.
4. If a party has appointed a representative, the letters shall be delivered to the representative. A representative of several persons is served with one copy of the letter and attachments. If more than one representative has been appointed, the letters are delivered to only one representative. The party may indicate an attorney to whom letters should be served.

[The course of the hearing]

§16.

1. The panel may schedule a hearing in any place it deems appropriate to conduct the proceedings, while maintaining the parties' right to participate in the hearing.
2. The hearing is open to public, unless the Panel decides otherwise. An athlete or other person may request that a hearing be held in camera if the public hearing is inappropriate for reasons of public order, where the interest of minors or the protection of private life of the parties so require, where publicity would prejudice the interest of justice or where the proceedings are exclusively related to questions of law.

3. A hearing may be held using means of distance communication. The decision in this regard belongs to the Chairman of the composition of a given Panel.
4. The hearing is recorded and the sound and video are recorded.
5. The panel may summon the parties, proxies and witnesses in any manner it deems appropriate for the most purposeful.
6. The Chairman of the composition supervises the hearing, including the right to take the vote, impose certain obligations or order other measures of order, aiming at conducting the hearing with the rights of the parties.
7. Proceedings before the Panel shall be conducted in Polish or English, provided that anti-doping regulations so provide.

§17.

1. The panel conducts the proceedings in a manner ensuring equal treatment of the parties and the right of each party to be heard and to present their statements and evidence to support them.
2. The parties to the proceedings should act in good faith and contribute to the speed and efficiency of the proceedings and the avoidance of unnecessary costs.
3. The panel aims to ensure the speed and efficiency of the proceedings and to avoid unnecessary costs.
4. Each party shall bear the costs of the proceedings on their own.

§18.

If, in the course of the proceedings, circumstances appear that may indicate the need to reclassify the charges, the Panel informs the parties about this fact and sets a deadline of at least fourteen days for the parties to take their position.

[Conference and vote]

§19

1. If the Panel deems the matter to be resolved, the chairman shall order a meeting and voting on the decision.
2. The decision is made by a simple majority of votes. None of the members of the adjudication panel may refuse to participate in voting, as well as abstain from voting, unless he has opted out of considering this matter. Each member has the right to submit a separate opinion.
3. The conference and voting are secret.

[Decisions]

§20

1. Anti-doping matters are resolved by the Panel by a decision.
2. In the event of a typographical error, the Panel has the right to correct the judgment.

[Costs of the proceedings]

§21

1. The accused who violated anti-doping rules is obliged to reimburse POLADA for the costs of the proceedings.
2. In particularly justified cases, the Hearing Panel may bear the costs between the parties, order the defendant to pay all or only part of the costs or not charge the parties with costs.

[Confidentiality]

§22

1. Members of the Panel and persons operating the Panel are obliged to keep confidential all information concerning the proceedings, unless the Chairman of the Panel of the competent instance orders otherwise.
2. Documents related to the proceedings are stored in accordance with the provisions on security personal data in force at POLADA
3. Access to documents shall be granted to the parties.

[Entry into force and transitional provisions]

§23

The regulations come into force on the day they are approved by the Assembly of the Hearing Panel.

§24

These regulations apply to cases initiated after their entry into force.